

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Herbert Demond York,)	C/A No.: 1:20-1367-RMG-SVH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
Sgt. Ms. Williamson; and Mr.)	
Goodson,)	
)	
Defendants.)	
)	

Plaintiff, proceeding pro se and in forma pauperis, brought this action alleging violations of his constitutional rights by Defendants. On August 31, 2020, defendants Williamson and Goodson filed a motion to dismiss. [ECF No. 30]. As Plaintiff is proceeding pro se, the court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising him of the importance of the motion and of the need for him to file an adequate response by October 2, 2020. [ECF No. 32]. Plaintiff was specifically advised that if he failed to respond adequately, the motion may be granted. Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order, Plaintiff has failed to respond to the motion. On October 6, 2020, the undersigned issued an order permitting Plaintiff until October 20, 2020, to respond to the order if he wished to continue with the case. [ECF No. 39].

On November 15, 2020, Plaintiff filed a notice of changed of address.

[ECF No. 41]. The Clerk of Court mailed the court's October 6, 2020 order to Plaintiff's new address. [ECF No. 42]. On October 23, 2020, Plaintiff filed a letter indicating he wished to proceed with the case and requesting all mail be sent to his new address. [ECF No. 46]. The court issued a text order on the same day stating:

The court is in receipt of Plaintiff's letter in which he states that he wishes to proceed with this case, but fails to file a response. [ECF No. 46]. Plaintiff was served with the motion on August 31, 2020, at his address of record at that time. [ECF No. 30-1]. If Plaintiff wishes for another copy, he should immediately contact the Clerk of Court regarding the copy costs. Plaintiff is permitted until November 6, 2020, to file a response to the motion.

[ECF No. 48].

On November 2, 2020, Plaintiff filed a letter indicating he had not received a motion from defendants and requesting a chance to conduct discovery before responding. [ECF No. 50]. In response the court issued an order stating:

Although it appears Defendants properly served Plaintiff with the motion to dismiss, out of an abundance of caution, the Clerk's office is directed to mail Plaintiff a copy of the motion and the court's Roseboro order. Because the motion to dismiss claims the allegations of the complaint are insufficient, even if true, Plaintiff is not entitled to discovery prior to responding to the motion to dismiss. Plaintiff is permitted until December 4, 2020 to file a response.

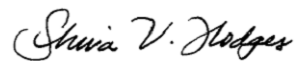
[ECF No. 52].

Notwithstanding the specific warning and instructions set forth in the court's orders, Plaintiff has failed to respond to defendant's motion. As such, it

appears to the court that he does not oppose the motion and wishes to abandon this case. Based on the foregoing, Plaintiff is directed to advise the court whether he wishes to continue with this case and to file a response to the motion by December 22, 2020. Plaintiff is further advised that if he fails to respond, the undersigned will recommend this case be dismissed for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

December 8, 2020
Columbia, South Carolina



Shiva V. Hodges
United States Magistrate Judge